



BILLING CODE: 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

A-570-014

#### 53-Foot Domestic Dry Containers from the People's Republic of China: Initiation of Antidumping Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

EFFECTIVE DATE: (Insert date of publication in the *Federal Register*.)

FOR FURTHER INFORMATION CONTACT: John Drury and Brian Davis, Office VI, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14<sup>th</sup> Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0195 and (202) 482-7924, respectively.

### SUPPLEMENTAL INFORMATION

#### The Petition

On April 23, 2014, the Department of Commerce (Department) received an antidumping duty (AD) petition concerning imports of 53-foot domestic dry containers (domestic dry containers) from the People's Republic of China (PRC), officially filed in proper form on behalf of a U.S. producer of domestic dry containers, Stoughton Trailers, LLC (Petitioner).<sup>1</sup> The AD Petition was accompanied by a countervailing duty (CVD) petition concerning imports of domestic dry containers from the PRC. On April 25, 2014, and May 6, 2014, the Department

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<sup>1</sup> See "Petition for the Imposition of Antidumping Duties on Imports of 53-Foot Domestic Dry Containers from the People's Republic of China," dated April 23, 2014 (hereafter referred to as the "Petition").

requested additional information and clarification of certain areas of the Petition, and on April 30, 2014, and May 8, 2014, respectively, Petitioner filed responses to these requests.<sup>2</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), Petitioner alleges that imports of domestic dry containers from the PRC are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports materially retard the establishment of an industry in the United States, or in the alternative, that the U.S. industry is materially injured or threatened with material injury by reason of such imports. Also, consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to Petitioner in support of its allegations.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because Petitioner is an interested party as defined in section 771(9)(C) of the Act, and that Petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigation that Petitioner is requesting.<sup>3</sup>

#### Period of Investigation

The period of investigation (POI) is October 1, 2013, through March 31, 2014.

#### Scope of the Investigation

The product covered by this investigation is domestic dry containers from the PRC. For a full description of the scope of the investigation, please *see* the “Scope of the Investigation” in Appendix I of this notice.

#### Comments on the Scope of the Investigation

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<sup>2</sup> See Petitioner’s, filing titled, “Response to Department of Commerce Supplemental Questions, Volume II: Sales at Less Than Normal Value,” dated April 30, 2014 (AD Supplement); *see also* “Response to Department of Commerce Supplemental Questions, Volume I: General Issues,” dated April 30, 2014 (General Issues Supplement); and “Petition for the Imposition of Antidumping and Countervailing Duties, Supplemental Submission, Petition Volume II: *53-Foot Domestic Dry Containers from the People's Republic of China*”, dated May 8, 2014 (AD Supplement 2).

<sup>3</sup> See “Determination of Industry Support for the Petition” section, below.

During our review of the Petition, the Department issued questions to, and received responses from, Petitioner pertaining to the proposed scope language in order to ensure that such language is an accurate reflection of the product for which the domestic industry is seeking relief.<sup>4</sup> As discussed in the preamble to the Department's regulations,<sup>5</sup> we are setting aside a period for interested parties to raise issues regarding product coverage. The period of scope comments is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination. All comments must be filed by 5:00 P.M. Eastern Daylight Time (EDT) on June 2, 2014, which is twenty calendar days from the signature date of this notice. Any rebuttal comments must be filed by 5:00 P.M. EDT on June 9, 2014. All such comments must be filed on the records of the AD investigation, as well as the concurrent CVD investigation.

#### Filing Requirements

All comments and submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). An electronically filed document must be received successfully in its entirety by the time and date of the applicable deadline noted above. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadline.<sup>6</sup>

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<sup>4</sup> See General Issues Supplemental Questions, dated April 25, 2014; *see also* General Issues Supplement, at 1-2 and Exhibit SG-2.

<sup>5</sup> See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>6</sup> See 19 CFR 351.303(b)(1). See also *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using

## Comments on the Product Characteristics for the AD Questionnaire

The Department requests comments from interested parties regarding the appropriate physical characteristics of domestic dry containers to be reported in response to the Department's AD questionnaire. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they believe are relevant to the development of an accurate list of physical characteristics. Specifically, interested parties may provide comments as to which characteristics are appropriate to use as: 1) general product characteristics and 2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe domestic dry containers, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, we must receive comments on product characteristics no later than June 2, 2014. Rebuttal comments must be received no later than June 9, 2014. All comments and

submissions to the Department must be filed electronically using IA ACCESS, as referenced above.

#### Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information.

Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>7</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petitions).

With regard to the domestic like product, Petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we determined that domestic dry containers constitute a single domestic like product and we analyzed industry support in terms of that domestic like product.<sup>8</sup>

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in Appendix I of this notice. To establish industry support, Petitioner provided its own production of the domestic like product in 2013.<sup>9</sup> Petitioner states that there are no other known producers of domestic dry containers in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.<sup>10</sup>

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<sup>7</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

<sup>8</sup> For a discussion of the domestic like product analysis in this case, see Antidumping Duty Investigation Initiation Checklist: 53-Foot Domestic Dry Containers from the People’s Republic of China (AD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Petitions Covering 53-Foot Domestic Dry Containers from the People’s Republic of China (Attachment II). This checklist is dated concurrently with this notice and on file electronically via IA ACCESS. Access to documents filed via IA ACCESS is also available in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

<sup>9</sup> See Volume I of the Petition, at 3; see also General Issues Supplement, at 2.

<sup>10</sup> See Volume I of the Petition, at 3.

Our review of the data provided in the Petition and other information readily available to the Department indicates that Petitioner has established industry support.<sup>11</sup> First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>12</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.<sup>13</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.<sup>14</sup> Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the AD investigation that it is requesting the Department initiate.<sup>15</sup>

#### Allegations and Evidence of Material Retardation, Material Injury and Causation

Section 733(a)(1)(B) of the Act states that the ITC “shall determine . . . whether there is a reasonable indication that the establishment of an industry in the United States is materially

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<sup>11</sup> See AD Initiation Checklist, at Attachment II.

<sup>12</sup> See section 732(c)(4)(D) of the Act; *see also* AD Initiation Checklist, at Attachment II.

<sup>13</sup> See AD Initiation Checklist, at Attachment II.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

retarded by reason of imports of the subject merchandise.” Petitioner alleges that imports of subject merchandise sold at less than normal value (NV) from the PRC have materially retarded the establishment of the domestic industry producing domestic dry containers. Petitioner argues that despite its demonstrated substantial commitment to commence production, U.S. production has not stabilized, and, therefore, the U.S. industry producing domestic dry containers has not been established.<sup>16</sup> To support its argument, Petitioner examines the five factors<sup>17</sup> considered by the ITC to determine if an industry is established,<sup>18</sup> as set forth in the ITC’s *AD/CVD Handbook*.<sup>19</sup> If the ITC determines that an industry is not established, it then considers whether the performance of the industry reflects normal start-up difficulties or whether the imports of the subject merchandise have materially retarded the establishment of the industry.<sup>20</sup> Petitioner contends that the domestic industry has performed substantially worse than what could reasonably be expected during normal start-up conditions, thereby demonstrating that the establishment of the domestic industry has been materially retarded by subject imports.<sup>21</sup> Petitioner also alleges that, in the alternative, the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than NV. In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>22</sup>

Petitioner contends that the industry’s materially retarded, or in the alternative, injured condition is illustrated by negligible market share; underselling and price depression or suppression; lost sales and revenues; adverse impact on production, capacity utilization, and

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<sup>16</sup> See Volume I of the Petition, at 37-38.

<sup>17</sup> See Attachment III.

<sup>18</sup> *Id.*, at 18-20 and 37-38; see also General Issues Supplement, at 1 and Exhibit SG-1.

<sup>19</sup> See *Antidumping and Countervailing Duty Handbook* (13<sup>th</sup> Ed.), USITC Pub. 4056 (December 2008) (*ITC AD/CVD Handbook*), at II-31.

<sup>20</sup> *Id.*, at II-31 and II-32.

<sup>21</sup> See Volume I of the Petition, at 38-39 and Exhibits I-10 and I-11.

<sup>22</sup> See General Issues Supplement, at 4-5 and Exhibit SG-3.



shipments; decline in employment variables; and decline in financial performance.<sup>23</sup> We assessed the allegations and supporting evidence regarding material retardation, or in the alternative, material injury or threat of material injury, and causation, and we determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.<sup>24</sup>

#### Allegation of Sales at Less Than Fair Value

The following is a description of the allegation of sales at less than fair value upon which the Department based its decision to initiate an investigation of imports of domestic dry containers from the PRC. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the AD Initiation Checklist.

#### Export Price

Petitioner based export price (EP) on one U.S. price quote for domestic dry containers produced in the PRC and offered for sale in the United States during the POI. As the quoted price is on an ex-works basis, Petitioner did not make any adjustments to this U.S. net price.<sup>25</sup>

#### Normal Value

Petitioner states that the Department has treated the PRC as a non-market economy (NME) country in every proceeding in which the PRC has been involved.<sup>26</sup> The presumption of NME status for the PRC has not been revoked by the Department and, therefore, in accordance with section 771(18)(C)(i) of the Act, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product for the investigation is appropriately based on

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<sup>23</sup> See Volume I of the Petition, at 14-20, 25-40 and Exhibits I-10 through I-15; *see also* General Issues Supplement, at 2-5 and Exhibits SG-3 through SG-6.

<sup>24</sup> See AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Retardation, Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering 53-Foot Domestic Dry Containers from the People's Republic of China.

<sup>25</sup> See Volume II of the Petition, at 4 and Exhibit II-4; *see also* AD Initiation Checklist.

<sup>26</sup> See Volume II of the Petition at 2.

factors of production valued in a surrogate market-economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and granting of separate rates to individual exporters.

Petitioner contends that Thailand is the appropriate surrogate country for the PRC because: 1) it is at a level of economic development comparable to that of the PRC; 2) it is a significant producer of comparable merchandise; and 3) the data for Thailand for valuing factors of production are available and reliable.<sup>27</sup> Based on the information provided by Petitioner, we conclude that it is appropriate to use Thailand as a surrogate country for initiation purposes.<sup>28</sup> After initiation of this investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value factors of production (FOPs) within 30 days before the scheduled date of the preliminary determination.<sup>29</sup>

Petitioner calculated NV using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. Petitioner based NV on its own production experience.<sup>30</sup> Petitioner asserts that, to the best of its knowledge, its consumption rates are similar to the consumption of PRC producers.<sup>31</sup>

Petitioner valued the factors of production using reasonably available, public surrogate country data, specifically, Thai import data from the Global Trade Atlas (GTA) for the period September 2013 through February 2014, which are the most recent six months of data available

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<sup>27</sup> *Id.* at 1-4.

<sup>28</sup> See AD Initiation Checklist.

<sup>29</sup> See 19 CFR 351.301(c)(3)(i). Note that this is the revised regulation published on April 10, 2013. See <http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt>.

<sup>30</sup> See Volume II of the Petition, at 4 and Exhibit II-5 and AD Supplement, at 1 and Exhibit SAD-1.

<sup>31</sup> *Id.*

for Thailand at the time of filing the Petition.<sup>32</sup> Petitioner excluded from these GTA import statistics imports from NME countries, countries that maintain broadly available export subsidies, and any imports from “unspecified” countries.<sup>33</sup> The Department determines that the surrogate values used by Petitioner are reasonably available and, thus, are acceptable for purposes of initiation. With respect to direct materials, Petitioner applied certain conversion factors to align the units of measure with its own FOPs.<sup>34</sup>

Petitioner calculated labor using a 2007 Thailand wage rate from the National Statistics Office’s 2007 Industrial Census, and adjusted this rate for inflation using the consumer price index (CPI) data for Thailand published by the International Financial Statistics (IFS).<sup>35</sup>

Petitioner valued electricity using a 2013 Thailand industry electricity rate from the Metropolitan Electricity Authority (MEA).<sup>36</sup>

Petitioner calculated financial ratios (*i.e.*, factory overhead expenses, selling, general, and administrative expenses, and profit) based on the 2013 year-end financial statements of Cho Thavee Dollasien Public Company Limited (formerly Cho Thavee Dollasien Co., Ltd.) and its subsidiary, Cho Thavee Thermo Tech Co., Ltd. (collectively, Cho Thavee Dollasien), Thai manufacturers of containers, trailer assemblies, special vehicles, and related equipment (products that Petitioner claims is comparable to domestic dry containers), for the year ending December 31, 2013.<sup>37</sup>

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<sup>32</sup> See Volume II of the Petition at 5 and Exhibit II-9; *see also* AD Supplement, at 2-3 and Exhibit SAD-3.

<sup>33</sup> See Volume II of the Petition at 5 and Exhibit II-9.

<sup>34</sup> *Id.* and at Exhibit II-6 and AD Supplement at 1-2.

<sup>35</sup> See Volume II of the Petition at 6 and Exhibits II-11 and II-12.

<sup>36</sup> See AD Supplement 2 at 2.

<sup>37</sup> See Volume II of the Petition at 6 and Exhibit II-14, and AD Supplement at 4-5 and Exhibit SAD-5.

### Fair Value Comparisons

Based on the data provided by Petitioner, there is reason to believe that imports of domestic dry containers from the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to NV in accordance with section 773(c) of the Act, Petitioner calculated the estimated dumping margin to be 84.07 percent with respect to imports of domestic dry containers from the PRC.<sup>38</sup>

### Initiation of AD Investigation

Based on our examination of the Petition on domestic dry containers from the PRC, the Department finds that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of domestic dry containers from the PRC are being, or likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation. For a discussion of evidence supporting our initiation determination, *see* the AD Initiation Checklist which accompanies this notice.

### Respondent Selection

In accordance with our standard practice for respondent selection in AD investigations involving NME countries, we intend to issue quantity and value questionnaires to each potential respondent named in the Petition,<sup>39</sup> and will base respondent selection on the responses received. In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the Enforcement and Compliance website (<http://trade.gov/enforcement/news.asp>). Exporters and producers of domestic dry containers

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<sup>38</sup> See AD Supplement at 6.

<sup>39</sup> See Volume I of the Petition at 12-13.

from the PRC that do not receive quantity and value questionnaires via mail may still submit a quantity and value response, and can obtain a copy from the Enforcement and Compliance website. The quantity and value questionnaire must be submitted by all PRC exporters/producers no later than May 27, 2014. All quantity and value questionnaires must be filed electronically using IA ACCESS.

### Separate Rates

In order to obtain separate rate status in an NME AD investigation, exporters and producers must submit a separate rate application.<sup>40</sup> The specific requirements for submitting the separate rate application in the PRC investigation are outlined in detail in the application itself, which will be available on the Department's website at <http://trade.gov/enforcement/news.asp> on the date of publication of this initiation notice in the *Federal Register*. The separate rate application will be due 60 days after the publication of this initiation notice. For exporters and producers who submit a separate rate status application and have been selected as mandatory respondents, these exporters and producers will no longer be eligible for consideration for separate rate status unless they respond to all parts of the Department's AD questionnaire as mandatory respondents. The Department requires that the PRC respondents submit a response to the separate rate application by the deadline referenced above in order to receive consideration for separate rate status.

### Use of Combination Rates

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

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<sup>40</sup> See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005) (Separate Rates and Combination Rates Bulletin), available on the Department's website at <http://enforcement.trade.gov/policy/>.

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.<sup>41</sup>

#### Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, and 19 CFR 351.202(f), copies of the public version of the Petition have been provided to the Government of the PRC. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each known exporter (as named in the Petition), as provided in 19 CFR 351.203(c)(2).

#### ITC Notification

We notified the ITC of our initiation, as required by section 732(d) of the Act.

#### Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of domestic dry containers from the PRC materially retard the establishment of the U.S. industry, or whether the U.S. industry is materially injured, or threatened with material injury by reason of such imports.<sup>42</sup> A negative ITC determination will result in the investigation being terminated.<sup>43</sup> Otherwise, this investigation will proceed according to statutory and regulatory time limits.

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<sup>41</sup> See Separate Rates and Combination Rates Bulletin at 6 (emphasis added).

<sup>42</sup> See section 733(a) of the Act.

<sup>43</sup> *Id.*

## Submission of Factual Information

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule*, 78 FR 21246 (April 10, 2013), which modified two regulations related to AD and CVD proceedings: 1) the definition of factual information (19 CFR 351.102(b)(21)), and 2) the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i) – (iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all proceeding segments initiated on or after May 10, 2013, and thus are applicable to this investigation. Please review the final rule, available at <http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt>, prior to submitting factual information for this investigation.

## Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in AD and CVD proceedings.<sup>44</sup> The modification clarifies that parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under section 19 CFR 351.408(c), or to measure the adequacy of remuneration under section 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection (CBP) data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review

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<sup>44</sup> See *Extension of Time Limits, Final Rule*, 78 FR 57790 (September 20, 2013).



*Extension of Time Limits; Final Rule*, available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this segment.

#### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>45</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD or CVD investigations or proceedings initiated on or after August 16, 2013, including this investigation.<sup>46</sup> The formats for the revised certifications are provided at the end of the *Final Rule*. The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

#### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's website at <http://enforcement.trade.gov/apo/index.html>.

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<sup>45</sup> See section 782(b) of the Act.

<sup>46</sup> See *Certifications of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*).

This notice is issued and published pursuant to section 777(i) of the Act and 19 CFR 351.203(c).

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Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

May 13, 2014  
Date

## Appendix I

### Scope of the Investigation

The merchandise subject to investigation is closed (*i.e.*, not open top) van containers exceeding 14.63 meters (48 feet) but generally measuring 16.154 meters (53 feet) in exterior length, which are designed for the intermodal transport<sup>47</sup> of goods other than bulk liquids within North America primarily by rail or by road vehicle, or by a combination of rail and road vehicle (domestic containers). The merchandise is known in the industry by varying terms including “53-foot containers,” “53-foot dry containers,” “53-foot domestic dry containers,” “domestic dry containers” and “domestic containers.” These terms all describe the same article with the same design and performance characteristics. Notwithstanding the particular terminology used to describe the merchandise, all merchandise that meets the definition set forth herein is included within the scope of this investigation.

Domestic containers generally meet the characteristic for closed van containers for domestic intermodal service as described in the American Association of Railroads (AAR) Manual of Standards and Recommended Practices Intermodal Equipment Manual Closed Van Containers for Domestic Intermodal Service Specification M 930 Adopted: 1972; Last Revised 2013 (AAR Specifications) for 53-foot and 53-foot high cube containers. The AAR Specifications generally define design, performance and testing requirements for closed van containers, but are not dispositive for purposes of defining subject merchandise within this scope definition. Containers which may not fall precisely within the AAR Specifications or any successor equivalent specifications are included within the scope definition of the subject merchandise if they have the exterior dimensions referenced below, are suitable for use in intermodal transportation, are capable of and suitable for double-stacking<sup>48</sup> in intermodal transportation, and otherwise meet the scope definition for the subject merchandise.

Domestic containers have the following actual exterior dimensions: an exterior length exceeding 14.63 meters (48 feet) but not exceeding 16.154 meters (53 feet); an exterior width of between 2.438 meters and 2.60 meters (between 8 feet and 8 feet 6 3/8 inches); and an exterior height of between 2.438 meters and 2.908 meters (between 8 feet and 9 feet 6 1/2 inches), all subject to tolerances as allowed by the AAR Specifications. In addition to two frames (one at either end of the container), the domestic containers within the scope definition have two stacking frames located equidistant from each end of the container, as required by the AAR Specifications. The stacking frames have four upper handling fittings and four bottom dual aperture handling fittings, placed at the respective corners of the stacking frames. Domestic containers also have two forward facing fittings at the front lower corners and two downward facing fittings at the rear lower corners of the container to facilitate chassis interface.

All domestic containers as described herein are included within this scope definition, regardless of whether the merchandise enters the United States in a final, assembled condition, or as an unassembled kit or substantially complete domestic container which requires additional

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<sup>47</sup> “Intermodal transport” refers to a movement of freight using more than one mode of transportation, most commonly on a container chassis for on-the-road transportation and on a rail car for rail transportation.

<sup>48</sup> “Double-stacking” refers to two levels of intermodal containers on a rail car, one on top of the other.

manipulation or processing after entry into the United States to be made ready for use as a domestic container.

The scope of this investigation excludes the following items: 1) refrigerated containers; 2) trailers, where the cargo box and rear wheeled chassis are of integrated construction, and the cargo box of the unit may not be separated from the chassis for further intermodal transport; 3) container chassis, whether or not imported with domestic containers, but the domestic containers remain subject merchandise, to the extent they meet the written description of the scope. Imports of the subject merchandise are provided for under subheading 8609.00.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Imports of the subject merchandise which meet the definition of and requirements for “instruments of international traffic” pursuant to 19 U.S.C. §1322 and 19 C.F.R. §10.41a may be classified under subheading 9803.00.50, HTSUS. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise as set forth herein is dispositive.

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